

### REMARKS

Claims 1-9, 11-29, 31-37, 39-45, 47-53, and 55 are presented for examination. Claims 1, 2, 3, 5, 29, 34, 35 and 41 are currently amended. Claims 6-9, 11-22, 24, 26, 27, 31-33, 36, 37, 39, 42, 44, 45, 47, 49, 50-53 and 55 are previously presented. Claims 23, 25, 28, 40, 43 and 48 are original. Claims 10, 30, 38, 46, and 54 are cancelled without prejudice. No new matter has been introduced. Favorable reconsideration is respectfully requested.

### Interview Summary

On Tuesday, October 7, 2008, a telephonic interview was conducted concerning the above identified patent application. The following parties participated in the telephonic interview: Alissa L. Hoey (Examiner) and Timothy M. Bryan (Attorney for Applicant).

The final rejection mailed June 5, 2008 and possible amendments to the claims to further distinguish the claims from U.S. 4,569,874 (Kuznetz) and U.S. Patent No. 6,018,819 (King) were discussed. The Examiner did not reach a conclusion regarding allowability.

### Claim Rejections

Claims 1, 2, 5, 6, 8, 10-12, 29, 31, 33, 34, and 41 were rejected as being allegedly unpatentable over U.S. Patent No. 4,569,874 (Kuznetz) in view of U.S. Patent No. 6,018,819 (King). Claims 3, 4, 35, and 36 were rejected as being allegedly unpatentable over Kuznetz in view of King and in further view of U.S. Patent No. 5,308,689 (Shinkai). Claims 19, 20, 23, and 24 were rejected as being allegedly unpatentable over Kuznetz in view of King and in further view of U.S. Patent No. 5,515,543 (Gioello). Claims 17, 18, 26, and 27 were rejected as being allegedly unpatentable over Kuznetz in view of King and in further view of the present applicant's specification. Claims 1, 2, 5, 7, 9, 15, 25, 29, 40 and 41 were rejected as allegedly being unpatentable over King in view of Kuznetz. Claim 28 has been rejected as being unpatentable over King in view of Kuznetz and further in view of Maeshima (U.S. 4,470,155). Claims 13, 14, 41 and 42 have been rejected as unpatentable over King in view of Kuznetz and further in view of Maeshima and further in view of U.S. 5,077,838 (Sensor). Applicant

respectfully requests reconsideration and withdrawal of these rejections in view of the amendments and remarks submitted on September 5, 2008 and further in view of the above claim amendments and the following remarks.

While Applicant does not concede that these rejections are proper, in order to expedite prosecution Applicant has further amended claims 1, 29, and 41 to include an outer shell garment that includes a first portion comprising an unlaminated and uncoated shell fabric that is breathable, water resistant, and wind resistant, and a second portion comprising a laminated or coated shell fabric including a vapor permeable moisture barrier that is substantially waterproof and windproof. Applicant submits that this combination of features is neither taught nor suggested by the cited references. In Kuznetz, for example, the entire garment is formed of the same material. Similarly, King describes a garment that includes front and back panels which have differing air permeability and moisture vapor transmission properties, but which have similar constructions. (See, e.g., col. 5, lines 5-7). According to King, "each of the front and rear panel portions ... is made from three layers of material" which are described as an outer shell, an inner liner and a hydrophobic microporous membrane. (See, e.g., King at col. 4, lines 6-8). Accordingly, the garments of Kuznetz and King, taken alone or in combination do not include a first, lower portion and a second, upper portion with the contrasting features of Applicant's invention.

These are not merely trivial distinctions. For example, with the claimed configuration the laminated or coated upper portion of the shell provides protection against wind and rain in regions that may benefit from it most, while the shell's unlaminated and uncoated lower portion provides for greater relative circulation by allowing moisture generated by the wearer to escape. In this manner the claimed configuration offers protection against the elements without unduly compromising breathability and ventilation thereby contributing to the overall comfort of the wearer. Furthermore, the use of an unlaminated and uncoated fabric in the lower portion helps to keep the overall weight of the garment at a minimum and also contributes to making the garment more packable.

The remaining art has not been cited for, nor does it show, a shell garment that includes

a first portion comprising an unlaminated and uncoated shell fabric that is breathable, water resistant, and wind resistant, and a second portion comprising a laminated or coated shell fab. Accordingly, claims 1, 29 and 41 are believed to be patentable.

Each of the dependent claims is believed to define patentable features of the invention. Each dependent claim partakes of the novelty of its corresponding independent claim, in light of the foregoing amendments, and, as such, has not been discussed specifically herein.

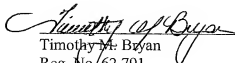
It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Please charge any additional fees, not already covered by check, or credit any overpayment, to deposit account 06-1050, referencing Attorney Docket No. 22436-0057001.

Respectfully submitted,

Date: October 28, 2008

  
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